

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION

_____)	
VILOX TECHNOLOGIES, LLC)	
)	
Plaintiff,)	
)	Civil Action No. ____
v.)	
)	JURY TRIAL DEMANDED
EXPRESS, INC. and)	
EXPRESS, LLC)	
)	
Defendants.)	
_____)	

COMPLAINT

For its Complaint, Plaintiff Vilox Technologies, LLC (“Vilox”), by and through the undersigned counsel, alleges as follows:

THE PARTIES

1. Vilox is a Texas limited liability company having a principal place of business at 101 E. Park Boulevard, Suite 600, Plano, Texas 75704.
2. Defendant Express, Inc. is a Delaware corporation, having a principal place of business at 1 Express Drive, Columbus, Ohio 43230.
3. Defendant Express, LLC is a Delaware limited liability company, also having a principal place of business at 1 Express Drive, Columbus, Ohio 43230.
4. Express, LLC owns and operates the website www.express.com, and, upon information and belief, Express, LLC is a wholly-owned subsidiary of Express, Inc. Upon information and belief, Express, LLC acts as an agent for or otherwise for the benefit of Express,

Inc. Express, Inc. and Express, LLC are referred to collectively herein as “Express” or “Defendants.”

JURISDICTION AND VENUE

5. This action arises under the patent laws of the United States, Title 35 of the United States Code, 35 U.S.C. § 1 *et seq.* The Court has subject matter jurisdiction over this action pursuant to 35 U.S.C. § 271, and 28 U.S.C. §§ 1331 and 1338.

6. The Court has personal jurisdiction over Express because, upon information and belief, Express conducts substantial business in the forum, directly or through intermediaries, including: (i) at least a portion of the infringing activity alleged herein; and (ii) regularly doing or soliciting business, engaging in other persistent courses of conduct and/or deriving substantial revenue from goods and services provided to persons in this district.

7. Venue is proper in this District pursuant to 28 U.S.C. §§ 1391(b), (c) and (d), as well as 28 U.S.C. § 1400(b). Furthermore, venue is proper based on Defendant’s conducting of business within this District and/or soliciting and establishing online relationships with persons and entities within this District, including the infringing products or services alleged herein.

THE PATENTS-IN-SUIT

8. On July 6, 2004, United States Patent 6,760,720 (the “720 patent”), entitled “Search-on-the-Fly/Sort-on-the-Fly Search Engine for Searching Databases,” was duly and lawfully issued by the U.S. Patent and Trademark Office (“USPTO”). A true and correct copy of the ‘720 patent is attached hereto as Exhibit A.

9. On November 27, 2007, United States Patent 7,302,423 (the “423 patent”), entitled “Search-on-the-Fly with Merge Function,” was duly and lawfully issued by the U.S.

Patent and Trademark Office (“USPTO”). A true and correct copy of the ‘423 patent is attached hereto as Exhibit B.

10. The ‘720 and ‘423 patents are each valid and subsisting, and Vilox is the assignee and owner of all right, title and interest in and to the ‘720 and ‘423 patents, including the right to assert all causes of action arising under said patents and to any remedies for infringement of them.

11. Dr. Joseph DeBellis is the sole named inventor on each of the Patents-in-Suit. Over 15 years ago, Dr. DeBellis recognized a significant limitation on the ability to search, retrieve and sort results of queries across a single database or across multiple databases. At that time, search queries tended to return very large amounts of data that could not easily be sorted and reviewed by the user. Additionally, no iterative application of search functions or filters was available to search and/or sort a single or multiple databases. Furthermore, a query for a given piece of information might, in the case of multiple databases, retrieve the information from one database, but not another, even if the information is the same in each database, because of the different ways in which the data in the databases was organized.

12. To solve these long-standing problems, Dr. DeBellis conceived a method and apparatus for conducting on-the-fly searches that provide the user with an intuitive mechanism for searching databases without having to know anything about the database structure. This conception formed the basis for several inventions, including those claimed in the ‘720 and ‘423 patents.

COUNT I – INFRINGEMENT OF U.S. PATENT 6,760,720

13. Vilox repeats and realleges the allegations of paragraphs 1 through 12 as if fully set forth herein.

14. Express has infringed and continues to infringe one or more claims of the ‘720 patent, including at least claim 1, by making, using, selling and/or offering for sale within this District and elsewhere in the United States and/or importing into this District and elsewhere in the United States, products or services that, among other features, receive a selection of one or more databases, determine a database schema for a given database, provide a list of database fields that include a descriptor indicating a data category, receive a search selection for a database field from the list of database fields, determine a quantity of entries in the selected database field, and determine the number of characters in each entry in the selected database field and displaying a portion of the entry that is equal to or less than a specified number of characters or in its entirety if the entry does not exceed the specified amount, including but not limited to search features of the Express online store located at www.express.com (the “Express Online Store”), and the Express mobile website (the “Express Mobile Site”).

15. Express’s infringing actions are without license and authorization.

16. Express’s unauthorized actions therefore constitute violation of Vilox’s exclusive rights pursuant to 35 U.S.C. § 271(a), and Vilox is entitled to recover from Express the damages sustained by Vilox as a result of Express’s infringement of the ‘720 patent in an amount to be determined at trial, which amount shall be no less than a reasonable royalty, together with interest and costs as fixed by this Court pursuant to 35 U.S.C. § 284.

COUNT II – INFRINGEMENT OF U.S. PATENT 7,302,423

17. Vilox repeats and realleges the allegations of paragraphs 1 through 16 as if fully set forth herein.

18. Express has infringed and continues to infringe one or more claims of the ‘423 patent, including at least claim 1, by making, using, selling and/or offering for sale within this

District and elsewhere in the United States and/or importing into this District and elsewhere in the United States, products or services that, among other features, determine a database schema for a database, provide a list of database fields that include descriptors of data categories, receive a search selection for a database field from the list of database fields; and determine the number of characters in each entry in the selected database field and displaying a portion of the entry that is equal to or less than a specified number of characters or in its entirety if the entry does not exceed the specified amount, including but not limited to search features of the Express Online Store and Express Mobile Site.

19. Express's infringing actions are without license and authorization.

20. Express's unauthorized actions therefore constitute violation of Vilox's exclusive rights pursuant to 35 U.S.C. § 271(a), and Vilox is entitled to recover from Express the damages sustained by Vilox as a result of Express's infringement of the '423 patent in an amount to be determined at trial, which amount shall be no less than a reasonable royalty, together with interest and costs as fixed by this Court pursuant to 35 U.S.C. § 284.

JURY DEMAND

Vilox hereby demands a trial by jury on all issues so triable.

PRAYER FOR RELIEF

WHEREFORE, Vilox requests that the Court enter judgment against Express as follows:

A. An adjudication that Defendants Express, Inc. and Express, LLC have infringed the '720 and '423 patents.

B. An award of damages to be paid by Defendants adequate to compensate Vilox for Defendants' past infringement of the '720 and '423 patents and any continuing or future

infringement through the date such judgment is entered, including interest, costs, expenses and an accounting of all infringing acts including, but not limited to, those acts not presented at trial;

C. A declaration that this case is exceptional under 35 U.S.C. § 285, and an award of Vilox's reasonable attorneys' fees; and

D. An award to Vilox of such further relief at law or in equity as the Court deems just and proper.

Date: November 30, 2015

/s/Andrew W. Spangler

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